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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,233	04/26/2006	Jan Tuma	51101	4119
1609 7590 11/22/2010 ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P. 1300 19TH STREET, N.W. SUITE 600 WASHINGTON,, DC 20036				
EXAMINER				
ABRAHAM, AM/AD A				
ART UNIT		PAPER NUMBER		
1744				
MAIL DATE		DELIVERY MODE		
11/22/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Advisory Action  
Before the Filing of an Appeal Brief***

**Application No.**

10/577,233

**Applicant(s)**

TUMA, JAN

**Examiner**

AMJAD ABRAHAM

**Art Unit**

1744

–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED 27 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant argues that the independent claims are patentably distinguishable over the cited patent documents by (1) the use of thixotropic polyvinyl siloxane to form adhesion elements, (2) the density of 16,000 elements per cm<sup>2</sup> of adhesion elements formed, (3) the claimed dimension of the adhesion elements, and (4) the shape of the mold cavity used to form the adhesion elements.

With respect to the 1<sup>st</sup> argument that the cited art does not teach a thixotropic polyvinyl siloxane, Examiner submits that the Arzt reference clearly teaches that the adhesion elements can be made of polyvinyl siloxane. (See paragraph 0103 of Arzt). In the final rejection (dated 09/28/2010) examiner cited evidence (Jenkins and Hahn) showing that polyvinyl siloxane is inherently thixotropic. As applicant has provided no evidence countering this point, it is submitted that polyvinyl Siloxane is inherently thixotropic.

With respect to the 2<sup>nd</sup> argument that the cited art does not teach an adhesion element density of 16,000 elements per cm<sup>2</sup>, Examiner submits that Arzt (paragraph 0069) teaches that the number of adhesion structures can be between 10<sup>6</sup> to 10<sup>7</sup> per cm<sup>2</sup>.

With respect to the 3<sup>rd</sup> and 4<sup>th</sup> argument that the shape produced by the mold cavities would lead to an inventive adhesion structure with improved adhesion capabilities, Examiner submits that Arzt and Tuma teaches the formation of many shapes of adhesion structures such as hyperboloids, concave, and convex configurations. It would have been obvious to one having the ordinary skill in the art to seek the configuration which would provide the greatest adhesion force to mimic a gecko type fastener. Tuma teaches that hyperbolic adhesion structures will provide an increased interlocking with complementary structures and Arzt

**Continuation Sheet (PTOL-303)**

/Yogendra N Gupta/  
Supervisory Patent Examiner, Art Unit 1791

/AMJAD ABRAHAM/  
Examiner, Art Unit 1744

**Application No.**

U.S. Patent and Trademark Office  
PTOL-303 (Rev. 08-06)

**Advisory Action Before the Filing of an Appeal Brief**

Part of Paper No. 20101115